

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 7TH NOVEMBER 2006 / 16TH KARTHIKA 1928

WP(C).No. 25318 of 2006(L)

PETITIONER:

PUSHPAKARAN, AGED 50 YEARS,
S/O. AYAPPAN, KARATHOPPIL HOUSE,
KODANNUR VILLAGE, DESOM, THRISSUR.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

RESPONDENTS:

1. A & E INSPECTOR NO.4, OFFICE OF THE
ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETY (GENERAL), THRISSUR-3.
2. VENGINESSERY SERVICE CO-OPERATIVE
BANK, REG.NO.528, VENGINESSERY, THRISSUR,
REPRESENTED BY ITS SECRETARY.
3. THANKA, D/O. AYAPPAN,
NARAYANANKATHIL, KODANNOR VILLAGE,
DESOM, THRISSUR.

BY ADV. SRI.C.E.UNNIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07/11/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C) NO. 25318/06

APPENDIX

PETITIONER'S EXHIBITS:-

P1: True copy of the sale notice issued by the 1st respondent to the petitioner dated 21-8-2006

P2: True copy of the application to set aside the ex-parte order filed by the petitioner dt 19-9-2006.

P3: True copy of the application for stay of the sale proceedings filed by the petitioner dt. 19-9-2006

K. Thankappan, J.

W.P.(C). No. 25318 of 2006

Dated this the 7th day of November, 2006

JUDGMENT

Petitioner stood as a surety to the 3rd respondent who availed a loan of from the respondent bank. Since the 3rd respondent could not remit the amount, the respondent bank initiated proceedings for recovery of the amount by filing A.R.C. 1601/1997 before the 1st respondent. The arbitrator passed an award in favour of the respondent bank. In execution of the award, Ext.P1 notice was issued against the petitioner. Hence, the petitioner has approached this Court.

2. When the writ petition came up for admission, this Court granted interim stay of all proceeding pursuant to Ext.P1 on condition that the petitioner remits an amount of Rs.25,000/- within one month from the date of the order. It is submitted that the petitioner has already complied with the interim order passed by this Court.

3. The petitioner submits that he is ready and willing to remit the amount provided that he may be given the benefit of one time settlement. The petitioner also submits that the award is an ex party award and he has not given a chance to prove the payment which he made.

4. Considering the facts and circumstances of the case and that the petitioner is willing to pay the amount, the respondent bank is directed to consider the claim of the petitioner for the benefit of one time settlement scheme, for which the petitioner has to file an application before the respondent bank within 15 days from today. If the petitioner files the application, as ordered by this Court, the respondent bank shall consider the application and take a decision on the matter as early as possible, at any rate within 30 days from the date of the application. The respondent bank shall also consider the request of the petitioner to verify the payment which he made. Till a decision is taken by the respondent bank, all further steps pursuant to Exts.P1 notice shall be kept in abeyance. If the petitioner fails to file the application within the stipulated time, the respondent bank can proceed against the petitioner on the basis of Ext.P1 notice.

The writ petition is disposed of as above.

**K.Thankappan,
Judge.**

mn.

K. Thankappan,J.

W.P.(C) No. /2006

Judgment
20-9-2006